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Paper No. 9

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SEP 26 2001

OFFICE OF PETITIONS

In re Application of
Montgomery
Application No. 09/823,278
Filed: March 29, 2001
Attorney Docket No. 042503 02619

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:
: DECISION GRANTING
: PETITION
:

This is a decision on the petition filed July 16, 2001,
requesting that the above-identified application be accorded a
filing date of March 29, 2001

The application was deposited on March 29, 2001. However, on May
11, 2001, the Office of Initial Patent Examination mailed a
"Notice" requiring an oath or declaration, the surcharge set
forth in 37 CFR 1.16(e), the basic filing fee, additional claim
fees, and substitute drawings in compliance with 37 CFR 1.84. The
Notice also advised applicant that page 27 of the specification
appeared to have been omitted.

In response, on July 16, 2001, a copy of page 27, an Abstract, a
preliminary amendment regarding the Abstract, the required fees,
and the present petition were filed. The petition alleges that
page 27 was filed on March 29, 2001. In support, the petition is
accompanied by a copy applicant's postcard receipt which
specifically acknowledges receipt in the PTO of 50 pages of
specification, including title page and claims.

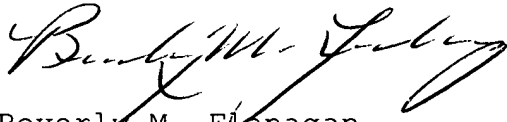
In view of the evidence presented, it is concluded that page 27
was received on March 29, 2001, and that page 27 was later
misplaced in the Office.

The petition is granted.

Because the date stamped postcard receipt states, "The PTO did
not receive the following listed item(s) Abstract- 1 page," it
cannot prove receipt of the Abstract. The Abstract was not
present on the filing date. Therefore it cannot be considered a
part of the original disclosure of the application.

The application is being returned to the Office of Initial Patent Examination Division for further processing with a filing date of March 29, 2001, using the copy of the page filed on July 16, 2001.

Telephone inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy